

**REMARKS**

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing amendments to the claims.

Claims 5-21, 26 and 27 are withdrawn from consideration. Claims 1-4, 23-25 and 29 have been canceled. Claims 30-39 have been added. Claim 22 has been amended. Thus, claims 5-21, 26, 27, 28 and 30-39 are pending in the present application.

No new matter has been added by way of the amendment and new claims because each amendment and new claim is fully supported by the canceled claims and the present specification. For example, the amendment to claim 22 is supported at page 8, lines 10-14 and page 41, lines 14-22 of the present specification, as well as by canceled claim 1. New claim 30 is supported by canceled claim 2, as well as page 8, lines 15-19 of the specification. New claims 31-32 are supported by canceled claims 3-4 and, for example, page 9, lines 20-24 of the specification. New claim 33 is supported at page 41, lines 11-13 and page 53, lines 1-9 of the present specification. New claims 34-36 are supported, for instance, by canceled claims 2-4.

New claims 37-39 are supported at page 41, lines 14-23. Thus, no new matter has been added.

Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

***Election/Restrictions***

The Examiner has required election in the present application between:

Group I, claims 1-4, 22-25 and 28-29, drawn to a modified polypropylene;

Group II, claims 5-9, drawn to a process for making modified polypropylene;

Group III, claims 10-21, drawn to a different process for making modified polypropylene; and

Group IV, claims 26-27, drawn to a foamed product.

For the purpose of examination of the present application, Applicants hereby confirm their election, with traverse, of Group

I, claims 1-4, 22-25 and 28-29. Applicants respectfully submit that if the modified polypropylene is new and unobvious, the method of using or making that product must necessarily be new and unobvious. See *In re Ochiai*, 37 USPQ2d 1127 (CAFC 1995). Thus, the Examiner does not even have to search the method classes if the composition is found to be new and unobvious. Accordingly, there is no undue burden on the Examiner. Further, Applicants respectfully submit there is no undue burden to search at least Groups II and III since they are within the same class and subclass. Thus, Applicants respectfully request reconsideration and that the present Restriction Requirement be withdrawn.

**Issues under 35 U.S.C. § 102(b)**

Claims 1, 22, 24-25 and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gokuraku et al. (U.S. Patent No. 6,432,525 B1; hereinafter Gokuraku '525). Also, claims 23 and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gokuraku '525 as evidence by *Encyclopedia of Polymer Science and Engineering* ("Encyclopedia"). Finally, claims 1-4 and 24-25 stand

rejected under 35 U.S.C. § 102(b) as being anticipated by Akzo Nobel (WO 99/27007; hereinafter WO '007).

First, Applicants respectfully submit that rejections under § 102(b) in view of a) Gokuraku '525 as evidenced by *Encyclopedia* and b) WO '007 are rendered moot because the disputed claims have been canceled.

Second, Applicants respectfully traverse the rejection under § 102(b) in view of Gokuraku '525 with regard to all presently pending claims.

#### The Present Invention

The present invention is directed to a modified polypropylene composition (F1). Claimed composition (F1) comprises (B3) polypropylene, and (A1) a modified polypropylene. The modified polypropylene (A1) has a melt flow rate (ASTM D1238, 230°C, load of 2.16 kg) of 0.1 to 10 g/10 min, a melt tension of 3 to 20 g and a gel fraction, as determined by boiling paraxylene extraction, of 0.01 to 25 % by weight. The polypropylene (B3) is contained in an amount of 1 to 50 % by weight, and the modified polypropylene (A1) is contained in an amount of 50 to 99 % by weight, wherein the

total of the components (A1) and (B3) is 100 % by weight. Applicants submit that Gokuraku '525 fails to disclose all features of the present invention.

Distinctions over Gokuraku '525

The Gokuraku '525 reference discloses a production process of a blow-molded foam, wherein a base resin is used that is composed of a polypropylene resin with certain melt tension and melt flow rate, and a foamed layer having certain cell diameter, average thickness and average density (see Abstract; Col. 2, lines 51-59). The Office Action further refers Applicants to portions of Cols. 6-7 of Gokuraku '525 and Applicants' range of components as recited in claim 22.

Regarding the disclosure at Column 7, lines 49-67, Gokuraku '525 discloses that the polypropylene resin may be mixed with other resin components, if necessary. Further, the Gokuraku '525 reference discloses that the other resin components can be used to obtain "the specified polypropylene resin, and also ordinary polypropylene resins," and "if the ratio of a resin component other than polypropylene resins in the base resin becomes too high, the

characteristics properties of the polypropylene resin will be impeded." (Col. 7, lines 52-60).

However, Applicants submit that Gokuraku '525 discloses a different composition than what is instantly claimed, and even teaches away from achieving the present invention.

First, Applicants respectfully refer the Examiner to claim 22. With the present invention, the modified propylene composition (F1) comprises the polypropylene (B3) and the modified polypropylene (A1) in a specific mixing ratio ( $B3/A1 = (1-50)/99-50$ ) (% by weight)). Gokuraku '525 fails to disclose these features of the present invention. Because "a claim is only anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," the cited Gokuraku '525 reference cannot be a basis for a rejection under § 102(b). See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Thus, because of the lack of disclosure of all claimed features, the rejection in view of Gokuraku '525 is overcome. Applicants further submit that the features the new claims are also not disclosed, including new claims 37-39.

Second, Applicants respectfully submit that besides failing to disclose all features as instantly claimed (i.e., specific blending ratio), Gokuraku '525 teaches away from achieving the present invention, and the foamed product of Gokuraku '525 cannot achieve the advantages of the present invention.

Gokuraku '525 discloses weight ranges that fall outside of what is instantly claimed. Further, the present invention is a composition that can produce a foamed product, particularly a foamed sheet, which has excellent appearance and uniformity of cells. The present invention also has excellent food hygienic qualities and can be used for food trays.

Even the advantages of the present invention have been experimentally confirmed. For instance, in Examples 26-28, the present invention has achieved better expansion ratios, appearance, and cell shapes (see starting at page 79 of the present specification, especially Table 11 on page 82). The Reference Example 5 use modified polypropylene (21), which is described at pages 76-77 of the specification. In contrast, Gokuraku '525 fails to disclose such unexpected features of the present invention.

Thus, Applicants respectfully submit that these are additional distinctions over the cited Gokuraku '525 reference.

**Conclusion**

Thus, Applicants respectfully submit that the present invention is patentably distinguishable over the cited references, including Gokuraku '525. The Gokuraku '525 reference fails to disclose all features as instantly claimed. Accordingly, Applicants respectfully request the Examiner to reconsider, and to withdraw all rejections and allow the currently pending claims.

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that the Examiner pass the application to issue.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$110.00 is attached hereto.



Appl. No. 09/925,475  
Art Unit 1711

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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1155-0224P

Attachment: Version with Markings to Show Changes Made

VERSION WITH MARKINGS TO SHOW CHANGES MADE

**IN THE CLAIMS:**

Claims 1-4, 23-25 and 29 have been canceled.

The claims have been amended as follows:

22. (Amended) A modified polypropylene composition (F1) comprising:

(B3) polypropylene, and

(A1) [the] a modified polypropylene [of any one of claims 1 to 4,] having a melt flow rate (ASTM D1238, 230°C, load of 2.16 kg) of 0.1 to 10 g/10 min, a melt tension of 3 to 20 g and a gel fraction, as determined by boiling paraxylene extraction, of 0.01 to 25 % by weight,

wherein the polypropylene (B3) is contained in an amount of 1 to [99] 50 % by weight and the modified polypropylene (A1) is contained in an amount of 50 to 99 [to 1] % by weight, the total of said components (A1) and (B3) being 100 % by weight.

Claims 30-39 have been added.